

### **REMARKS**

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

### **PENDING CLAIMS**

Claims 1-12 were pending, under consideration and subjected to examination in the Office Action. Appropriate claims have been amended, canceled and/or added (without prejudice or disclaimer) in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is present interested. At entry of this paper, Claims 1, 2, 7, 8, 10 and 13-17 will be pending for further consideration and examination in the application.

### **"PROVISIONAL" DOUBLE-PATENTING**

It is respectfully noted that any present double-patenting rejection(s) is only a "provisional" double-patenting rejection. As a result, Applicant respectfully submits a traversal, but refrains from commenting further on a substance of the rejection at this time, until an actual double-patenting rejection is made.

### **EARLIEST-FILED "PROVISIONALLY-REJECTED" APPLICATION**

It is respectfully noted that this is the earliest-filed application of the applications involved in the present "provisional" double-patenting rejection (as evidenced by an earlier application serial number, i.e., 10/770,519 verses 10/846,558). MPEP 804 states (in relevant part) that: "If a "provisional" nonstatutory

obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer." Withdrawal of the "provisional" double-patenting rejection, and allowance of the present (earliest-filed) application, are respectfully requested. Even assuming (for argument purposes) that the prior double-patenting rejection was proper, claims of the present application have been amended in a manner wherein the prior double-patenting rejection is obviated, and claims of such applications are sufficiently distinguished from one another such that a future double-patenting rejection is unwarranted/precluded.

### **REJECTION UNDER 35 USC '103**

The 35 USC '103 rejection of claims 1-12 being unpatentable over Kuwano (U.S. Patent Pub 2003/0226011) in view of Gerdes (U.S. Patent Pub 2003/0046541) is respectfully traversed. However, such rejections have been rendered obsolete by the present clarifying amendments to Applicant's claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude renewal of any such rejections against Applicant's clarified claims.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated hereat by reference. Further, all Office Action statements regarding the prior art rejections are

respectfully traversed. As additional arguments, Applicant respectfully submits the following remarks.

Applicant's claims specifically recite that information is transmitted from a content transmitting device to a content receiving device, and then the content transmitting device uses a timer to measure the amount of time that it is taking for an acknowledgment of receipt to be returned back from the content receiving device to the content transmitting device. That is, a "round-trip communication" starts and ends at the content transmitting device, and the timer measurement effectively measures the time of such "round-trip communication.

More particularly, independent claim 1, for example, claims a content transmitting device having a "timer means for measuring a time from transmission of information to said content receiving device until arrival of acknowledgement of receipt from said content receiving device, wherein when a measured result by said timer means is larger than a predetermined value, the content is not transmitted to said content receiving device." Other ones of Applicant's claims have similar or analogous features/limitations.

Turning now to precluding a renewed rejection based upon the previously-applied art, Kuwano et al.'s FIG. 7 and paragraphs [0074]-[0079] disclosure (concerning an embodiment which utilizes a timer) teaches a communication sequence diagram regarding establishing a connection in order to perform asynchronous transmission. However, immediately after Kuwano et al.'s producer 30 and consumer 40 establishes a "connection" and starts to communicate, the first communication (step 219; FIG. 7) is initiated from the consumer 40 to the producer 30. That is, the producer 30 does NOT send such communication, and instead,

appears to utilize the "connection" establishment to trigger start its timer, and then measures time until receipt of the communication initiated from the consumer 40. Accordingly, the producer 30 (if analogized to Applicant's claimed "content transmitting device") does NOT send a communication to the consumer 40, and thus, is not measuring a time period of a round-trip communication initiated from itself. Accordingly, it is respectfully submitted that Kuwano et al.'s arrangement would not have disclosed or suggested the above-emphasized features/limitations of Applicant's claims.

Turning next to the secondary Gerdes reference, Gerdes does not cure the major deficiency mention above with respect to the primary Kuwano et al. reference. Accordingly, it is respectfully submitted that the references (whether taken separately, or in the applied combination) would not have disclosed or suggested Applicant's claimed invention.

In addition to the foregoing, the following additional remarks from Applicant's foreign representative are also submitted in support of traversal of the rejection and patentability of Applicant's claims.

One important feature of Applicant's present invention, as recited, for example, by claim 1, is that the content transmitting device (100) includes timer means (108) which measures a time (T1/Fig. 3) from transmission of information to said content receiving device (200) until arrival of acknowledgement of receipt from said content receiving device (200). If the time (T1) measured by said timer means is larger than a predetermined value, the content is not transmitted to said content receiving device. For further description, attention is directed, for example, to the

description in page 17, line 23 to page 19, line 12 and page 22, lines 14-25 of the original specification.

The Examiner has stated that Kuwano discloses the timer means of the present invention. Applicant respectfully submits that such contention is incorrect. More specifically, Kuwano discloses a timer which measures the time for receiving the device authentication request command from the Consumer 40 after the Asynchronous Connection is established as stated in section 0079. The timer of Kuwano does not measure a time from transmission of information to a content receiving device until arrival of acknowledgement of receipt from the content receiving device. In Kuwano, the Producer 30 tells whether the Consumer 40 corresponds to a DTCP method or not by starting up a timer to measure the time for receiving the device authentication request command from the Consumer 40 after the Asynchronous Connection is established. The objective of using the timer in Kuwano is very different from that of the timer means of Applicant's present invention. That is, Applicant's present invention does not concerns the DTCP method.

In addition to the above distinguishing feature, new claim 13 recites that the timer means in the content transmitting device measures time T2 (Fig. 3) in addition to time T1. New claim 14 recites that the timer means in the content receiving device measures time T3. Kuwano does not teach to measure the times T2 and T3 in addition to time T1.

Gerdes does not cure the major deficiency mention above with respect to the primary Kuwano et al. reference. As a result of the foregoing, it is respectfully

submitted that the references (whether taken separately, or in the applied combination) would not have disclosed or suggested Applicant's claimed invention.

As a result of all of the foregoing, it is respectfully submitted that the applied art (taken alone and in the Office Action combinations) would not support a '103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such '103 rejection, and express written allowance of all of the '103 rejected claims, are respectfully requested.

#### **EXAMINER INVITED TO TELEPHONE**

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

#### **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to

any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 500.43478X00) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

/Paul J. Skwierawski/  
Paul J. Skwierawski  
Registration No. 32,173

PJS/slk  
(703) 312-6600